

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

MERCK & CIE, ET AL.

Plaintiffs,

-vs.-

**MACOVEN PHARMACEUTICALS,
ET AL.**

Defendants.

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C.A. NO. 6:12-cv-27-LED

JURY TRIAL DEMANDED

**PLAINTIFFS MERCK & CIE'S, ET AL. ANSWER
TO THE COUNTERCLAIMS OF GNOSIS S.p.A., GNOSIS USA INC.
AND GNOSIS BIORESEARCH S.A.**

Plaintiffs/Counterclaim-Defendants Merck & Cie, et al. ("Merck" or "Plaintiffs"), by and through their undersigned attorneys, as and for their Answer to the Counterclaims of Gnosis S.p.A., Gnosis USA Inc. and Gnosis Bioresearch S.A. (collectively "Gnosis"), answer as follows:

DEFENDANT'S COUNTERCLAIMS

THE PARTIES

1. Upon information and belief, Plaintiffs admit that Gnosis S.p.A. is an Italian corporation with its principal place of business at Via Lavoratori Autobianchi, 1 20033 Desio (MI) Italy.
2. Upon information and belief, Plaintiffs admit that Gnosis USA Inc. is a Delaware corporation with a principal place of business at 169 N. Main Street, Doylestown, PA 18901.
3. Upon information and belief, Plaintiffs admit that Gnosis Bioresearch S.A. is a Swiss association with a principal place of business at Via Lischedi, CH-6592 San Antonio, Switzerland. .
4. Plaintiffs admit the allegations of Paragraph 4.

5. Plaintiffs admit the allegations of Paragraph 5.
6. Plaintiffs admit the allegations of Paragraph 6.

JURISDICTION AND VENUE

3. ¹ This paragraph 3 contains legal conclusions to which no answer is required. To the extent an answer is required, Plaintiffs admit paragraph 3 and do not contest subject matter jurisdiction for purposes of this action. Plaintiffs deny the remaining allegations of this paragraph 3.

4. This paragraph 4 contains legal conclusions to which no answer is required. To the extent an answer is required, Plaintiffs admit paragraph 4 and do not contest personal jurisdiction in this judicial district for purposes of this action. Plaintiffs deny the remaining allegations of this paragraph 4.

5. This paragraph 5 contains reservations of rights and legal conclusions to which no answer is required. To the extent an answer is required, Plaintiffs admit that venue is proper in this judicial district for purposes of this action. Plaintiffs deny the remaining allegations of this paragraph 5.

COUNT I DECLARATORY RELIEF: NONINFRINGEMENT

6. Plaintiffs hereby incorporate their responses to paragraphs 1-6 and 3-5 above, and otherwise deny the allegations of this paragraph 6.

7. Plaintiffs admit that an actual and justiciable controversy exists between Plaintiffs and Gnosis. Plaintiffs otherwise deny the allegations of paragraph 7.

8. Denied.

9. Plaintiffs deny that Gnosis is entitled to the relief they seek and otherwise deny the allegations of paragraph 9.

COUNT II DECLARATORY RELIEF: INVALIDITY

¹ Plaintiffs note that the paragraphs of Gnosis's counterclaims are not numbered sequentially. Beginning with the Jurisdiction and Venue subsection, the numbering goes from Paragraph 6 to Paragraph 3. Plaintiffs will follow the numbering of Gnosis's paragraphs for ease of reference.

10. Plaintiffs hereby incorporate their responses to paragraphs 1-6 and 3-9 above, and otherwise deny the allegations of paragraph 10.

11. Plaintiffs admit that an actual and justiciable controversy exists between Plaintiffs and Gnosis. Plaintiffs otherwise deny the allegations of paragraph 11.

12. Denied.

13. Plaintiffs deny that Gnosis is entitled to the relief they seek and otherwise deny the allegations of paragraph 13.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Counterclaims fail to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Merck reserves the right to amend its answers to assert additional affirmative defenses that discovery may show exist.

Dated: May 7, 2012

Respectfully submitted,

By: /s/ Dwayne C. Norton
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*Attorneys for Plaintiffs Merck & Cie, Pamlab
LLC and South Alabama Medical Science
Foundation*

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on May 7, 2012.

/s/ Dwayne C. Norton
Dwayne C. Norton